

Advocating the lowest reasonable rates consistent with the maintenance of adequate utility service, and an equitable distribution of rates among all classes of consumers.

# ANNUAL REPORT 2021

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**Annual Report**

December 30, 2022

**VIA ELECTRONIC MAIL**

The Honorable John C. Carney, Jr.  
Governor  
State of Delaware  
Tatnall Building  
150 Martin Luther King, Jr. Boulevard South  
Dover, DE 19901

Re: Division of the Public Advocate 2021 Annual Report

Dear Governor Carney:

Thank you for the opportunity to serve as the Public Advocate for our state and to provide the Division of the Public Advocate's ("DPA") 2021 Annual Report.

During 2021, we saw finalized rate cases for both Delmarva Power (electric) and Sussex Shores, Artesian Wastewater Management, Inc.'s acquisition of Tidewater Environmental Services, Inc. and Veolia Water's acquisition of Suez Water, establishment of Energy and Climate forums by Senator Hansen, Empowerment Grants allocating \$3.5 million from the Exelon merger for low-income energy efficiency projects, and ensuring continuing services during the pandemic.

On the federal side, we have been very busy. We participated in filing comments asking FERC to consider greenhouse gas emissions when assessing projects, Transcontinental and Texas Eastern rate cases, and the creation of the Office of Public Participation at FERC.

Though we have been busy with these important issues, we continue to prioritize our regulated utility consumers. We experienced a 13 percent increase in customer interactions compared to 2020, which itself was a watershed year.

Thank you again for the incredible opportunity to serve as the Public Advocate for our State. We look forward to working with you to ensure that consumers voices are heard in state and federal proceedings, that the costs to consumers are considered, and that valuable consumer protections are in place.

Sincerely,

A handwritten signature in blue ink that reads "Adam State". The signature is written in a cursive, flowing style.

Public Advocate

# AGENCY HISTORY

The Division of the Public Advocate (“DPA”) was created in 1978 in response to public outcry over steadily and sharply increasing utility rates. In establishing the DPA, the General Assembly charged the Public Advocate with representing consumer interests whenever utility companies regulated by the Public Service Commission (“PSC”) seek changes in the delivery of services or changes in rates for electric distribution, natural gas supply, water, or wastewater services.

In 2013, the General Assembly amended 29 *Del. C.* § 8716 to clarify its intent that the DPA is to advocate primarily on behalf of residential and small commercial customers, and that the DPA need not advocate on behalf of large commercial and industrial customers where the Public Advocate determines that these entities have the means to advocate on their own behalf. The DPA’s advisory role was also expanded to permit the Public Advocate to provide guidance to the Governor, General Assembly, or the Secretary of State on matters of energy policy and utility consumers, or other matters.

In 2019, the General Assembly amended 29 *Del. C.* § 8716 to allow the DPA to retain outside counsel to assist it, primarily in cases at the Federal Energy Regulatory Commission (“FERC”).

# AGENCY MISSION

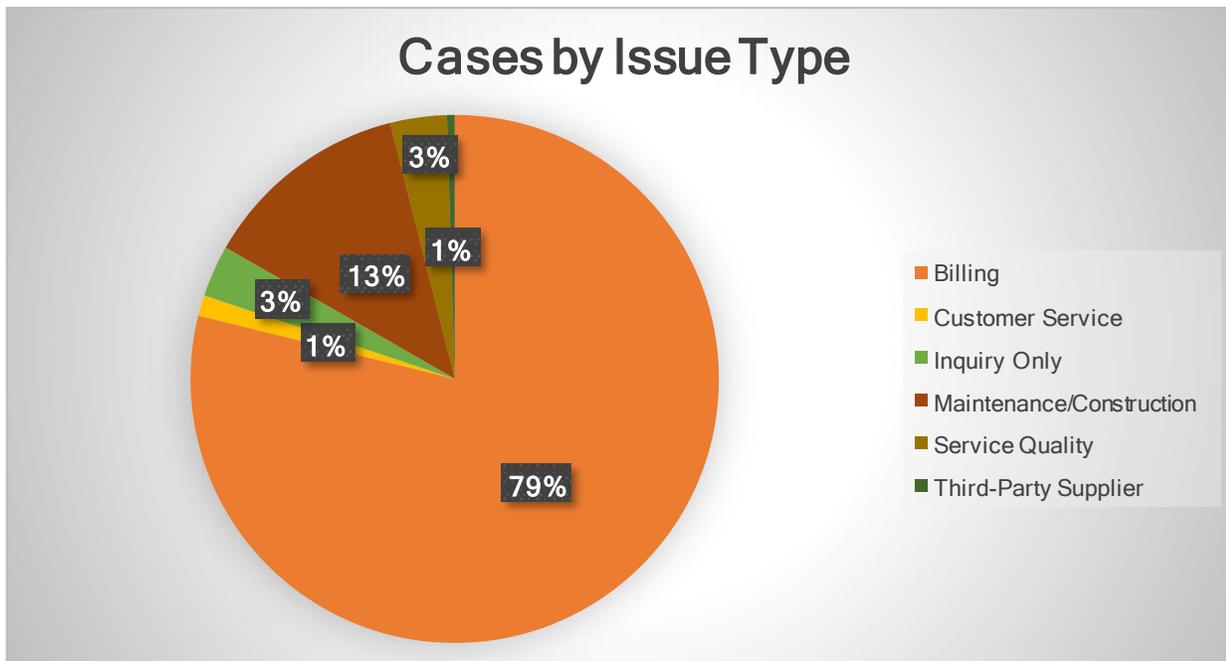
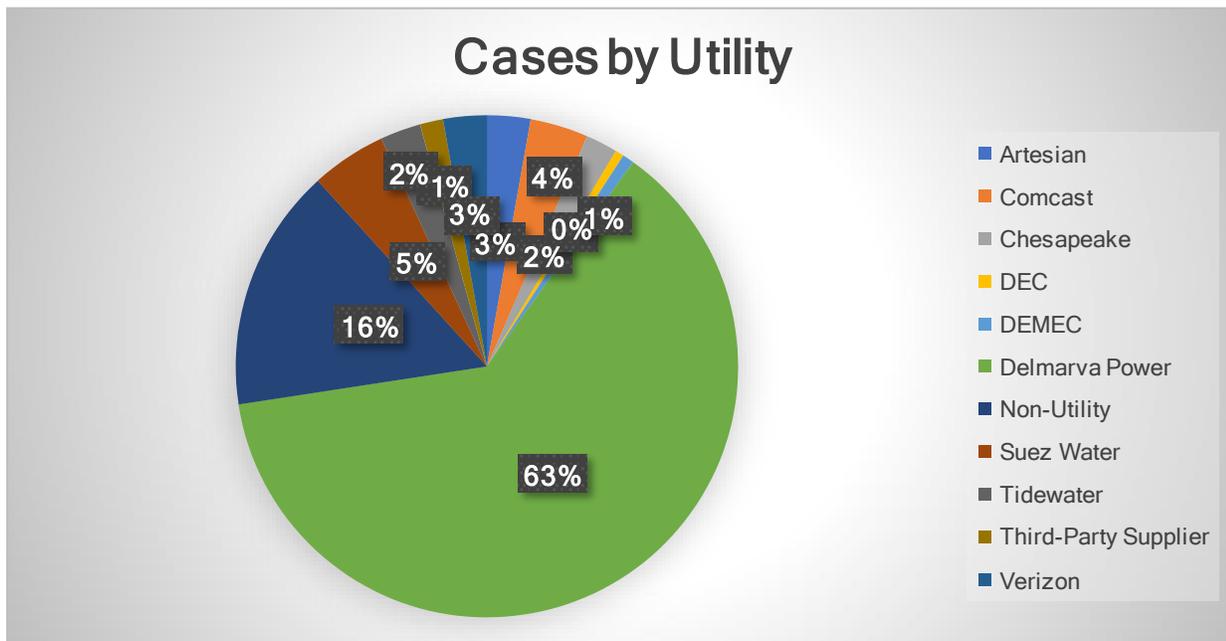
The fundamental mission of the DPA is to advocate for the lowest reasonable rates for consumers, consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers.

The DPA appears before the PSC on behalf of the interest of consumers in any matter or proceeding over which the PSC has jurisdiction and in which the Public Advocate deems the interest of consumers requires such participation. The DPA also appears on behalf of the interest of consumers in the courts of Delaware, the federal courts, and federal administrative and regulatory agencies and commissions in matters involving rates, service, and practices of public utilities.

Recognizing the unique role of the DPA, the General Assembly has statutorily appointed the Public Advocate to a number of important working groups, councils, and/or committees such as the Sustainable Energy Utility (“SEU”) and Renewable Energy Task Force.

# CONSUMER ENGAGEMENT

The DPA receives informal utility complaints from customers, which it investigates with the proper utility representatives. In 2021, our office experienced a 13 percent increase in consumer interactions from the prior year, which itself was a watershed year due to the pandemic. As you can see from the charts below, many consumers had billing and utility maintenance and construction questions. Many of the maintenance and construction questions included vegetation management, downed infrastructure, and property damage.



# HIGHLIGHTS FROM 2021

## Rate Cases

### Delmarva Power Electric

<u>Requested Increase</u>	<u>Approved Increase</u>
<u>\$26,300,000</u>	\$16,729,583 (66 percent of request)* *This was a litigated case with outcome decided by the Public Service Commission

Initially filed in March 2020 and decided in August 2021, this was the first litigated rate case since 2013. Using 845 kWh per month for an average residential customer, the effect of Delmarva Power's requested increase was a 3.42 percent increase in an average customer's total bill. As a non-revenue item, the DPA advocated for surge reporting after several instances of overvoltage events in communities causing damage to customer and utility equipment, which the parties agreed to initiate.

### Sussex Shores Water Company

<u>Requested Increase</u>	<u>Approved Increase</u>
<u>\$223,332</u>	\$173,744 (78% of request)

Filed in June 2020, Sussex Shores' rate increase request was settled in March 2021. As part of the settlement, the parties will review the company's plan to refinance long-term debt if economically practical considering prevailing interest rates.

## Mergers

2021 saw two utility mergers. **Artesian Wastewater Management** purchased **Tidewater Environmental Services** and **Suez Water** was purchased by **Veolia Water**. Customers will continue to receive services from the utilities and rates have not yet been adjusted.

## Artificial Island Finalized

Artificial Island, the 240kV line from Hope Creek into Delaware at an estimated cost of \$278 million, was finalized in 2021. PJM's original cost allocation allocated more than 90 percent of that amount to Delmarva Zone ratepayers (the Delmarva Zone includes the eastern shore of Maryland). The Federal Energy Regulatory Commission (FERC) granted rehearing, and in an order issued in February 2019 reversed its original decision. It concluded that a different cost allocation methodology should be used for the unique circumstances of the Artificial Island project. The approved cost allocation methodology reduced the Delmarva Zone's responsibility from more than 90% to approximately 10%. Public Service Electric & Gas and the New Jersey Board of Public Utilities have appealed the FERC's decision to the Court of Appeals for the District of Columbia.

## Energy Forums

Beginning in January 2021, Senator Hansen convened a group of energy stakeholders to discuss legislative initiatives and other energy policy matters. This group met about every two weeks throughout the year. The stakeholders group reached consensus on an amended Renewable Portfolio Standard (Senate Bill 33) goal for Delmarva Power customers, and revisions to community solar to remove barriers to entry (Senate Bill 2).

## Solar Auction

The 2021 Solar Renewable Energy Credit (SREC) auction was very successful. With changes from the 2019 procurement, Delmarva Power procured 14,451 SRECs in the auction to help it comply with the Renewable Portfolio Standard. The weighted average price per SREC was \$30.24, which was a reduction of roughly 8 percent from the previous auction.

## Utility Distribution Planning

Distribution Planning, known as the Infrastructure, Safety, and Reliability (ISR) report, is important for the Commission and other interested parties to monitor a regulated utility's capital spending. On the electric side, the DPA has advocated for more robust distribution planning to include such things as cost benefit analysis, non-wire alternatives, strategic locating, line loss reductions, distribution savings, and integration of Distributed Energy Resources (DERs).

## Utility Assistance – DEHAP

The COVID-19 pandemic created extraordinary hardship on everyone. On utility customers, arrears increased because of loss of employment and the hardship of the pandemic for so many families. The DPA was proud to work with the Delaware State Housing Authority through the Delaware Housing Assistance Program (DEHAP) to ensure utility assistance to renting customers. Because of programs like this, Delaware fared better than many other states in preventing large utility customer arrears. In addition to referring customers to DEHAP, the DPA worked to educate customers on the Low Income Home Energy Assistance Program (LIHEAP), Energy Efficiency, and Energy Audits of a home.

## Empowerment Grant

The Empowerment Grant funded by the Exelon merger, had another successful year in 2021. In total, through 2020 and 2021, the Empowerment Grant funded eight organizations at a total of more than \$3.5 million. Some of the funded programs included a refrigerator replacement program, insulated skirting for manufactured homes, low-moderate income HVAC rebates, and a Do-It-Yourself Home Weatherization Workshops at the Kingswood Community Center.

Having expended funds from the Exelon merger, and with the success of the Empowerment Grant, the Energy Equity Fund (EEF) was established through the Sustainable Energy Utility (d.b.a. Energize Delaware). This fund aims to improve energy efficiency, create access to clean renewable energy, provide pathways for jobs in clean energy and energy efficiency, and improve the health and safety of homes.

# FERC AND PJM UPDATES

As the only Delaware state agency that is a voting member of PJM, the DPA participates in hundreds of meetings with PJM, and other stakeholders, regarding a host of regional and federal issues.

The DPA intervenes and actively participates in cases brought before the Federal Energy Regulatory Commission (FERC) that affect the rates to be paid by Delaware's electric and natural gas consumers. This includes rate cases filed by interstate pipelines and annual transmission rate filings made by Delmarva Power.

Some of the PJM and FERC issues in 2021 were consideration of greenhouse gas emissions when assessing projects at FERC, Exelon's spinoff of its generating business, Columbia Gas, Transcontinental, and Texas Eastern interstate pipeline rate cases, and the creation of the Office of Public Participation.

The DPA and other consumer advocate offices have become more active at FERC, and FERC Commissioners have made it a point to seek out consumer advocate voices on matters before them. It is more important than ever that the DPA and other consumer advocates meet that call for more participation. Thanks to legislation passed in 2019 enabling the DPA to hire attorneys to represent it in matters brought before FERC and FERC matters on appeal to the courts, the DPA is working to answer that call.